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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,346	12/12/2003	James Harold Gray	02286	3779
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EXAMINER				
PENG, FRED H				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/735,346

Applicant(s)

GRAY ET AL.

Examiner

FRED PENG

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-18, 20-25, 27-30 and 32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-18, 20-25, 27-30 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/12/2010 has been entered.

DETAILED ACTION

Status of Claims

2. Claims 1, 3-18, 20-25, 27-30 and 32 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-18, 20-25, 27-30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Matz (US 7,212,979).

Regarding claims 1, 3, 9, 11 and 25, Matz teaches a method of capturing clickstream data related to viewing content, comprising:

receiving the content from a distribution network; receiving clickstream data at a viewer appliance communicating with the distribution network, the clickstream data describing at least subscriber actions that control the viewer appliance and an identifier of a viewer who generated the command (FIG. 1, -124; Col 6 lines 15-44; an identifier of a viewer who generated the command is inherent);

establishing communication from the viewer appliance to a remotely located component (Col 6 lines 26-30; the set top box establishing communication with a database remotely located at the head end);

eliminating local storage of the clickstream data at the viewer appliance (as the database located at the remote head end, therefore, suggests eliminating local storage of the clickstream data at the viewer appliance, set top box; as evidenced from Col 7 lines 22-25 which indicates the database can be either located remote at head end or local at set top box) and, instead by performing in parallel:

executing the clickstream data and forwarding the clickstream data from the viewer appliance to a remotely located component to eliminate delay perceived by a viewer (Col 6 lines 15-61; executing the clickstream data or command such as changing a channel while forwarding the channel change command to the remotely located database at the same time effectively eliminate delay perceived by a viewer); and

altering an aspect of the content being provided to the viewer; therefore, sending an indication that the command has been executed (Col 6 lines 26-44—change to a new channel or web access).

Regarding claim 4, Matz teaches wherein concurrently forwarding the clickstream data comprises concurrently forwarding the clickstream data to a storage device (Fig. 1—128 and 132; col. 6, lines 61-62—subscriber content-choice database; col. 7, lines 45-51—subscriber information database).

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Regarding claim 5, Matz teaches matching the clickstream data to a present context and concurrently forwarding the matching to the storage device (col. 6, lines 45- 62; col. 8, line 52-co1.9, line 14).

Regarding claim 6, Matz teaches determining a result of the clickstream data relative to a present context and concurrently forwarding the result to the storage device (col. 6, lines 45-62; col. 8, line 52-co1.9, line 14--determine category).

Regarding claims 7 and 16, Matz teaches wherein receiving the clickstream data at the viewer appliance comprises receiving the clickstream data at a set-top box (Fig. 1--Set-top box 124), and wherein forwarding the clickstream data comprises concurrently forwarding the clickstream data from the set-top box to a video control system (Fig. 1--Cable Operator Head-end 102).

Regarding claim 8, Matz teaches generating targeted advertising based upon the stored information related to the clickstream data (col. 12, line 63-co1.13, line 11- targeted advertisement).

Regarding claim 10, Matz teaches wherein executing the clickstream data comprises switching from one video stream to another video stream being provided to the premises of the viewer (col. 6, lines 40-44--"channel up" and "channel down").

Regarding claim 12, Matz teaches matching the clickstream data to a present context and including the matching in the clickstream data that is forwarded (col. 6, lines 40-44--date-time stamp).

Regarding claim 13, Matz teaches wherein matching the clickstream data to a present context comprises matching the clickstream data to a current time when the clickstream data is received (col. 6, lines 40-44--date-time stamp).

Regarding claim 14, Matz teaches determining the result of the clickstream data relative to a present context and including the result in the clickstream data that is forwarded (col. 6, lines 26-44--date-time stamp).

Regarding claim 15, Matz teaches wherein determining the result of the clickstream data comprises determining a change to a new video stream relative to the present context (col. 6, lines 26-44--"channel up" and "channel down" actions stored with a date-time stamp).

Regarding claim 17, Matz teaches choosing content based upon the clickstream data (col. 6, lines 40-44--"channel up" and "channel down" actions read on choosing content).

Regarding claims 18 and 23, Matz teaches a system with corresponding method of capturing a user command from a viewer that is related to viewing content, comprising:

- receiving the content from a distribution network at a viewer appliance;
- receiving the user command and an identifier of a viewer who generated the user command and a time at which a switch received the commands (Col 6 lines 23-44; Col 7 lines 9-21; a record of that click for a viewer is stored in a database inherently including an identifier of a viewer; a time stamp along with the click action is stored in the database suggests a time at which a switch received the commands as two-way digital cable network or DSL network inherently includes a switch);

- establishing communication from the viewer appliance to a remotely located component (Col 6 lines 26-30; the set top box establishing communication with a database remotely located

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at the head end); and immediately forwarding the command upon receipt through the distribution network to the remotely located component (col. 6, lines 15-44); and

a control mechanism that executes the commands in parallel with the transfer mechanism to control an aspect of the content being provided to the viewer (col. 6, lines 15-44; channel up or down in parallel with the transfer); and

continuing to store information related to the user command at viewer appliance after the user command has been executed (col. 7, lines 22-25).

Regarding claim 20, Matz teaches wherein the reception mechanism and the transfer mechanism are included in a set top box (Fig. 1--124; col. 6, lines 26-30).

Regarding claim 21, Matz teaches wherein the control mechanism is included in the set top box (Fig. 1--Set-top box 124; col. 6, lines 26-30).

Regarding claim 22, Matz teaches wherein the transfer mechanism concurrently forwards the clickstream data to a video control system located remotely from the premises of the viewer (Fig. 1--Cable Operator Head-end 102; col. 6, lines 26-30).

Regarding claim 24, Matz teaches executing the user command at the premises of the viewer (col. 6, lines 40-44--"channel up" and "channel down").

Regarding claim 27, Matz teaches concurrently forwarding the user command comprises concurrently forwarding the user command to a remote storage device (FIG. 1, 122, 112; Col 5 lines 44-52).

Regarding claim 28, Matz teaches matching the user command to a present context (Col 4 lines 49-55; relates a purchase to an advertisement).

Regarding claim 29, Matz teaches determining a result of the user command relative to the present context (Col 4 lines 41-55).

Regarding claim 30, Matz teaches generating targeted advertising based upon information related to the user command (Col 4 lines 41-55).

Regarding claim 32, Matz teaches concurrently forwarding the user command as a control message (Col 7 lines 1-8; program selection is a control message).

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-18, 20-25, 27-30 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Claims 1, 3-18, 20-25, 27-30 and 32 are rejected.

Correspondence Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FRED PENG whose telephone number is (571)270-1147. The examiner can normally be reached on Monday-Friday 09:30-19:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Fhp

/Joseph P. Hirl/

Supervisory Patent Examiner, Art Unit 2426

May 1, 2010